Norway Printing Pressmen and Assistants Union, Local 663, International Printing and Graphic Communications Union, AFL-CIO *and* Norway Gravure and Tri-Cities Local 382, Graphic Arts International Union, AFL-CIO

Norway Gravure *and* Tri-Cities Local 382, Graphic Arts International Union, AFL-CIO, Petitioner.
Cases 30-CD-92 and 30-UC-170

September 30, 1981

DECISION, DETERMINATION OF DISPUTE, AND ORDER

BY MEMBERS FANNING, JENKINS, AND ZIMMERMAN

This is a proceeding under Section 10(k) of the National Labor Relations Act, as amended, following a charge filed by Norway Gravure, herein called the Employer, alleging that Norway Printing Pressmen and Assistants Union, Local 663, International Printing and Graphic Communications Union, AFL-CIO, herein called Local 663, had violated Section 8(b)(4)(D) of the Act, by engaging in certain proscribed activity with an object of forcing or requiring the Employer to assign certain work to employees represented by it rather than to employees represented by Tri-Cities Local 382, Graphic Arts International Union, AFL-CIO, herein called Local 382.[1]

Pursuant to notice, a hearing was held before Hearing Officer Paul Bosanac on January 23 and February 3 and 4, 1981. All parties appeared and were afforded full opportunity to be heard, to examine and cross-examine witnesses, and to adduce evidence bearing on the issues.[2] Thereafter, the Employer, Local 382, and Local 663 filed briefs.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

The Board has reviewed the Hearing Officer's rulings made at the hearing and finds that they are free from prejudicial error. They are hereby affirmed.

Upon the entire record in this proceeding, the Board makes the following findings:

I. THE BUSINESS OF THE EMPLOYER

The parties stipulated, and we find, that the Employer, a Wisconsin corporation with a place of business in Norway, Michigan, is engaged in the manufacture and nonretail sales and distribution of labels. During the past year, the Employer sold and shipped products, goods, and materials valued in excess of $50,000 from its Norway, Michigan, facility directly to points located outside the State. The parties also stipulated, and we find, that the Employer is engaged in commerce within the meaning of Section 2(6) and (7) of the Act and it will effectuate the purposes of the Act to assert jurisdiction herein.

II. THE LABOR ORGANIZATIONS INVOLVED

The parties stipulated, and we find, that Local 663 and Local 382 are labor organizations within the meaning of Section 2(5) of the Act.

A. *Background and Facts of the Dispute*

Norway Gravure is engaged in the business of manufacturing and selling labels at its facility in Norway, Michigan. Until May 1980, the labels were printed in sheets or rolls on the press machines, carried to a separate machine where they were cut into individual labels, and finally put into a third machine which sealed and wrapped the labels. Employees represented by Local 663 handled the press machines and employees represented by Local 382 operated the sealer and wrappers. The intermediate step, the cutting machine, was performed by employees represented by each Local.

In May 1980, the Employer purchased the "Chambon" in-line cutting machine. The Chambon, a relatively new technological development, is powered by the printing press machine and makes it possible to consolidate the functions of printing and cutting. To facilitate the in-line process, the Employer set up the UE-6 sealing and wrapping machine in the pressroom next to the Chambon.

The Employer assigned all the work on the new integrated process to employees represented by Local 663. Subsequently, Local 382 filed griev-

[1] The 10(k) proceeding was consolidated for hearing with the petition for unit clarification filed by Local 382. Local 382 contends that the present dispute concerns to which bargaining unit certain operations belong. The petition here seeks, in effect, to have certain work on particular equipment assigned to employees represented by Local 382. Such an attempt is not an appropriate subject for a petition for clarification. It is not the Board's responsibility in representation proceedings to decide whether employees in the bargaining unit are entitled to do any particular work. See *Local No. 289, Graphic Arts International Union, AFL-CIO (The Detroit News)*, 246 NLRB 981 (1979); *Pacific Telephone and Telegraph Company*, 237 NLRB 1470 (1978); *The Gas Service Company*, 140 NLRB 445, 447 (1963). We shall dismiss the petition.

[2] On April 13, 1981, the General Counsel filed a motion to abate proceedings, and/or consolidate cases. The General Counsel stated, *inter alia*, that complaint had issued alleging that the Employer had made work assignments for discriminatory reasons in violation of Sec. 8(a)(3) and (1) of the Act. Thereafter, the Employer and Local 382 filed oppositions to the General Counsel's motion.

On August 24, 1981, the General Counsel filed a request to withdraw the motion to abate proceedings and/or consolidate cases. The General Counsel states that the outstanding unfair labor practices have been resolved and that the parties have expressly agreed that they desire the Board to resolve the issues in Cases 30-CD-92 and 30-UC-170. Accordingly, we grant the General Counsel's request to withdraw the motion to abate and/or consolidate cases.

ances, deemed untimely by the Employer, asserting jurisdiction over the Chambon and related devices. On or about November 16, 1980, the president of Local 663 sent a letter to the Employer indicating that Local 663 had authorized a strike if the Employer reassigned the work.

B. *The Work in Dispute*

The work in dispute involves the operation of the Chambon machine and ancillary equipment at the Employer's facility in Norway, Michigan.

C. *The Contentions of the Parties*

The Employer and Local 663 contend that because of the technological integration of functions made possible by the Chambon, the complete in-line process can best be performed by employees represented by Local 663 who have the ability to operate each machine. Specifically, the Employer argues that because the Chambon dramatically increases production potential, a team of employees, all of whom are experienced on each machine, must rotate among the different machines in order to alleviate the fatigue which results from one worker's sole operation of the press machine.

Local 382 takes the position that the work on the Chambon and UE-6 machine could be performed by employees represented by it. It contends that the UE-6 sealing and wrapping functions were traditionally performed by such employees.

D. *Applicability of the Statute*

Before the Board may proceed with a determination of this dispute pursuant to Section 10(k) of the Act, it must be satisfied that there is reasonable cause to believe that Section 8(b)(4)(D) has been violated and that the parties have not agreed upon a method for the voluntary adjustment of the dispute. It is clear that both Unions are disputing the assignment of the work on the Chambon and associated devices. The president of Local 663 indicated to the Employer that a strike had been authorized if the work was taken away from employees represented by it. Local 382 filed grievances, alleging the machines were within its jurisdiction.

On the basis of the entire record, we conclude that there is reasonable cause to believe that a violation of Section 8(b)(4)(D) has occurred. Further, there is no evidence that the parties have an agreed-upon method for the voluntary adjustment of the dispute. Accordingly, we find that this dispute is properly before the Board for determination.

E. *Merits of the Dispute*

Section 10(k) of the Act requires the Board to make an affirmative award of disputed work after giving due consideration to various factors.[3] The Board has held that its determination in a jurisdictional dispute is an act of judgment based on commonsense and experience reached by balancing those factors involved in a particular case.[4]

The following factors are relevant in making the determination of the dispute before us:

1. Collective-bargaining agreements

The Employer has collective-bargaining agreements with both Local 663 and Local 382.[5] These contracts are both in evidence but we find that they are not useful in making our determination. Neither contract specifically mentions the Chambon. While Local 382's contract refers to "wrapping machine operators," Local 663's contract includes printing presses and "associated devices." Thus, the collective-bargaining agreements favor neither Local 663 nor Local 382 in this dispute.

2. Company and industry practice

As the Chambon is a technological innovation, and is not yet widely used, there is little available evidence concerning an industry practice of allocating work on the in-line process.[6] Gerald Cartwright, representative for Local 663's International, testified that the in-line process for the milk carton industry is generally handled exclusively by pressmen.

Past company practice had been to generally assign cutting and finishing work to employees represented by Local 382. However, this is not determinative because employees represented by Local 663 have also performed some of the postpress machine work in the past.

3. Relative skills and efficiency of operation

The record indicates that a team of employees is needed to operate the total in-line process. The in-line process consists primarily of the operation of

[3] *N.L.R.B.* v. *Radio & Television Broadcast Engineers Union, Local 1212, International Brotherhood of Electrical Workers, AFL-CIO* [*Columbia Broadcasting System*], 364 U.S. 573 (1961).

[4] *International Association of Machinists, Lodge No. 1743, AFL-CIO (J. A. Jones Construction Company)*, 135 NLRB 1402 (1962).

[5] For reasons unrelated to the present case, there has been a dispute between the Employer and Local 382 concerning whether a collective-bargaining agreement between them currently exists. However, the jurisdiction clause of the old agreement and the disputed agreement are substantially identical.

[6] Cf. *International Union of Operating Engineers, Local 8 and/or 399, AFL-CIO (Pabst Brewing Company)*, 238 NLRB 1302, 1304 (1978) (contractual provision and past practice regarding assignment of tasks involved in old method of water purification irrelevant to assignment of different tasks required for a new method).

the printing press, the Chambon, and the UE-6. Employees represented by Local 663 have the requisite skills to handle all the machines; Local 382 members would have to go through a lengthy training procedure to learn to operate the Chambon and the printing press.

It appears that optimum efficiency results from the integration of all three functions (printing, cutting, and wrapping). It is necessary for the employees on the in-line process to be skilled in all the functions. For example, the Chambon operator might make adjustments which would affect the printing of the labels. In addition, each employee also needs to be skilled on each machine because efficient operation requires rotation of employees from position to position. This is necessary because of the so-called "fatigue factor." The introduction of the Chambon has increased the Employer's production potential; it now appears that if one employee works only the printing press he will become fatigued by this dramatically increased production. Thus, the employees need to move periodically throughout the shift from one position to another on the in-line process. It is apparent that this rotation requires each member of the team to spend some time on the printing press. Only employees represented by Local 663 are capable of operating both the press and the other machines.

4. Employer assignment and practice

Robert Rodemich, vice president and general manager of Norway Gravure, testified that the Chambon has been operated approximately seven times since its purchase. The Employer has utilized employees represented by Local 663 to handle the in-line process each time. The Employer is satisfied with the results of its assignment. Thus, employer assignment and practice clearly weigh in favor of awarding the work in dispute to employees represented by Local 663.

Conclusion

Upon the record as a whole, and after full consideration of all relevant factors involved, we conclude that employees who are represented by Local 663 are entitled to perform the work in dispute. We reach this conclusion relying on employee skills, economy and efficiency of operation, and employer assignment and practice. In making this determination, we are awarding the work in question to employees who are represented by Local 663, but not to that Union or its members. The present determination is limited to the particular controversy which gave rise to this proceeding.

DETERMINATION OF DISPUTE

Pursuant to Section 10(k) of the National Labor Relations Act, as amended, and upon the basis of the foregoing findings and the entire record in this proceeding, the National Labor Relations Board makes the following Determination of Dispute:

Employees of Norway Gravure, who are represented by Norway Printing Pressmen and Assistants Union, Local 663, International Printing and Graphic Communications Union, AFL-CIO, are entitled to operate the Chambon and ancillary equipment at the Employer's facility in Norway, Michigan.

ORDER

It is hereby ordered that the petition for clarification filed in Case 30-UC-170 herein be, and it hereby is, dismissed.